

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Shari Clarke

Respondent.

No. 2021-022

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Shari Clarke and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through KATE REYNOLDS, Executive Director, pursuant to chapter 42.52 RCW, chapter 34.05 RCW, and WAC 292-100-090(1). The following stipulated facts, conclusions of law, and agreed order will be binding upon the parties if fully executed, and if accepted by the Board without modification(s), and will not be binding if rejected by the Board, or if the Respondent does not accept the Board's proposed modification(s), if any, to the stipulation. This stipulation is based on the following:

**A. STIPULATED FACTS**

1. On June 8, 2021, the Executive Ethics Board (Board) received a complaint alleging that Shari Clarke (Ms. Clarke), the Vice President for Diversity (VPD), in the Office for Diversity and Inclusion (ODI) at Eastern Washington University (EWU), may have violated the Ethics in Public Service Act by using state resources for personal benefit or gain.

2. According to the complainant, Ms. Clarke runs her own consulting business<sup>1</sup> and has regularly done work for her personal business while being paid by EWU. The complainant alleges that Ms. Clarke is using her EWU computer and EWU staff, specifically, Marilyn Dreis

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<sup>1</sup>Board staff later identified the business as SJC Cultural Consultants.

(Ms. Dreis), the Executive Assistant to the VP and Director of Diversity Programs, to help with work on her consulting business during her assigned work hours at EWU.

3. According to documents provided by EWU, Ms. Clarke was originally hired as the VP for Diversity and Inclusion on August 1, 2017. Her position was eliminated March 4, 2020, with her contract ending in June 2020. In June 2020, she said she was asked to return to EWU and her contract was renewed. She is presently under contract at EWU as VP for Diversity and Inclusion until June 2023.

4. In a written response to Board staff, Ms. Clarke said that serving as the first VP for Diversity at EWU is an extremely demanding role requiring continuous and expansive engagement both on campus and in the region. She said the work does not have a start and stop time. Ms. Clarke said upon arrival to EWU, she was tasked with the development of a Diversity Strategic Plan for EWU. She said when the plan was completed, it was distributed campus-wide, to alumni, stakeholders, community leaders and community partners.

5. According to Ms. Clarke, during a meeting with the City of Spokane Mayor, David Condon (Mr. Condon), he commended her work on the document and requested her services in a plan for the City of Spokane.<sup>2</sup> Ms. Clarke said she met with the former President of EWU regarding this request to receive approval to work with the City of Spokane and to complete the necessary documents.<sup>3</sup>

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<sup>2</sup> Ms. Clarke provided Board staff with a copy of what appears to be a EWU agenda that was dated July 11, 2018, which listed "Lunch & Meeting with the Mayor" as one of the meetings scheduled.

<sup>3</sup> Board staff were provided with a copy of the EWU "Additional or Outside Employment" document that Ms. Clarke submitted. The outside employment information listed by Ms. Clarke was described as "Diversity Consultation in designing recruitment and strategic planning initiatives." The document was submitted by Ms. Clarke on May 2, 2019 and approved by the former President of EWU, Mary Cullinan (Ms. Cullinan) on May 3, 2019. Ms. Clarke also signed that she understood her responsibilities to comply with state laws including reviewing the Washington State Executive Ethics Board (EEB) Information at the EEB website.

6. Board staff asked Ms. Clarke how many other contracts she had through her consulting firm with organizations outside of EWU that parallel her responsibilities at EWU. She said the City of Spokane was the only one.

7. Ms. Clarke said that in early March of 2020 the ODI and her position with EWU were eliminated. Ms. Clarke said she was asked not to attend EWU meetings and to pursue her own interests with the support of the President who would provide a reference.<sup>4</sup> She said that a week following the elimination of the ODI, EWU ceased the majority of operations due to COVID-19. Ms. Clarke said that she has not held a meeting in her office since February 2020.

8. According to Ms. Clarke, in June 2020 she was asked by the President to return to EWU. She said she accepted an eleven-month appointment due to severe budget concerns but her contract has since been extended. She said she has been working remotely since March 2020.

9. In regards to the complaint about using state resources for her outside business, Ms. Clarke said that she is very respectful of the work environment and adheres to expected standards.<sup>5</sup> She said, "Serving as the inaugural Diversity & Inclusion Department, my office received calls, e-mail communication and daily requests on a myriad of Diversity questions. My honest response is I may have responded to a request or sent out information related to the City plan based on the inquiry received. Majority contacts come through EWU based on the immense visibility of the Office."

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<sup>4</sup> When asked by Board staff to clarify what this meant, she said she was still employed by the University however, the former President specifically told her to no longer attend Executive Leadership Team meetings or other EWU meetings. She said immediately following the announcement of her position being eliminated a reconfigured job announcement for her position was sent out the next business day. She said she assumed the leadership team was planning for the future.

<sup>5</sup> When asked by Board staff to clarify this statement, Ms. Clarke said that upon completion of the EWU Diversity Strategic Plan, the document was sent to community and regional partners. As a result, after distributing the plan, they received phone calls and comments regarding the effectiveness of the plan and interest was expressed by external partners about their desire to emulate the plan for their respective organizations.

10. Board staff reviewed Ms. Clarke’s email history at EWU and found that between September 4, 2019 and December 24, 2019, Ms. Clarke sent 10 emails to multiple email addresses with the subject lines, *The City of Spokane, City of Spokane Diversity Strategic Plan and Spokane Diversity Plan* from her work email address at EWU. All of the emails contained attachments with the drafts of the proposed Spokane Diversity Plan that Ms. Clarke’s outside business, SJC Cultural Consultants, was working on. Two contained what was identified as the final draft of “The City of Spokane Diversity Strategic Plan.” The email addresses the attachments were sent to included:

- [sjc.culturalconsultant@gmail.com](mailto:sjc.culturalconsultant@gmail.com)
- [sjwilliams3@aol.com](mailto:sjwilliams3@aol.com),
- [anna.franklin@providence.org](mailto:anna.franklin@providence.org),
- [sclarke5@ewu.edu](mailto:sclarke5@ewu.edu),
- [meidl@spokanepolice.org](mailto:meidl@spokanepolice.org)

11. Between September 4, 2019 and July 6, 2021, Ms. Clarke sent and received an additional 62 emails at her work email address at EWU from her business email address at [sjc.culturalconsultant@gmail.com](mailto:sjc.culturalconsultant@gmail.com). Most of the emails also cc other email addresses and appear to be related to her work at EWU.

12. Board staff found an email sent from a Providence.org email address to several Providence.org email addresses and included Ms. Clarke’s work email address at EWU. The email was sent on August 4, 2019. The subject line was *Diversity Audit Proposal*. The email had a copy of Ms. Clarke’s resume and a copy of a letter from Ms. Clarke’s consulting business, SJC Cultural Consultant Associates, attached. The letter was dated July 18, 2019 and stated, in part:

*Dear Anna & Katie,*

*It has been a pleasure as well as extremely insightful meeting with you and learning about Providence and the commitment on behalf of the organization to provide health care that effectively serves a broad range of diverse constituents.*

*Upon reflection from our previous conversations on a vision for Inclusive Excellence at Providence Health & Services, I am proposing utilizing my expertise and skills in the assessment, writing and implementation of a Diversity Strategic Plan for Providence. Utilization of SJC Cultural Consulting Services will enable dedicated time to provide a thorough assessment of needs in alignment with the commitment of the organizations history and founding by the Sisters of Providence.*

*SJC Cultural Consulting Services will provide the following...*

*... I have attached an abbreviated version of my resume for your review. Thank you for consideration of this request.*

*I look forward to responding to any questions you may have.*

*Warm Regards,  
Shari J. Clarke, PhD*

13. When asked about this letter, Ms. Clarke said Providence asked for this proposal. Ms. Clarke said there was never any action taken as a result of the proposal.

14. Board staff contacted Ms. Clarke and asked her to identify the email addresses listed above and to explain why she was using her work email address for her outside business. In a written response, she said that the emails: sjc.culturalconsultant@gmail, sjwilliams3@aol and sclarke5@ewu.edu, belong to her.

15. Ms. Clarke said that the other two email addresses belong to Anna Franklin (Ms. Franklin), Providence Hospital Administrator, and Police Captain Traci Meidl (Ms. Meidl). Ms. Clarke said both Ms. Franklin and Ms. Meidl serve on a community organization Board of Directors that she also serves on. She said the Race and Social Justice Committee Members were reviewing physical copies of the City Strategic Plan at a meeting. Ms. Clarke said that they requested copies, which she sent to them as a courtesy. She said that she believes they were inadvertently sent from her EWU email address.

16. Ms. Clarke said she is not a very computer savvy person and has difficulty accessing EWU email when she is not in the office. She said her position demands that she writes a great deal whenever she completes a draft, part of a document, or the final version. She said she has always sent copies to all her personal e-mail addresses. She said this is done so that wherever she is physically located, she can pull up the document and have access for completion and discussion.

17. According to Ms. Clarke, she works from home most evenings and weekends and needs access, which may or may not be available on certain systems. She said she has not used any EWU resources for her personal use or her outside business. Board staff asked for and received an image of Ms. Clarke's hard drive. A review of Ms. Clarke's history on her work computer revealed three saved word documents that appeared to be related to her outside employment with SJC Cultural Consulting Services. The first document was dated April 17, 2019, and was addressed to the then Mayor of Spokane, Mr. Condon.<sup>6</sup> The document stated in part:

*Dear Mayor Condon,*

*After multiple meetings with you regarding the diversity and inclusion needs for the City of Spokane and after discussions with members of my team, I would like to propose utilizing my Diversity Consulting Services in the assessment, writing and implementation of the Diversity Strategic plan for the City. Use of SJC Cultural Consulting Services will enable dedicated time to provide thorough assessment of needs and alignment with the mission of the City as outlined in Vision 2020.*

*SJC Cultural Consulting Services will provide the following...*

*...I eagerly look forward to speaking with you regarding this proposal and responding to any questions, you may have. If in agreement, I would like to begin the process effective May 15, 2019 with completion of the final product for your review and edits by August 1, 2019.*

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<sup>6</sup> According to the history on the document, it was last modified on April 17, 2021 and a copy of the document was printed on that same day.

*Warm Regards,  
Shari J. Clarke, PhD*

18. In regards to the letter to Mr. Condon, Ms. Clarke said that he asked for a copy of the proposal. She said she understands now that she should not have used state resources. She said she had already spoken to the leadership team and the then-President of EWU, about the proposal and just wanted to send a quick email with the proposal to the Mayor. She said she also shared the plan with various groups at EWU to show what they were doing with the community in regards to diversity.

19. The second document appeared to be a draft of the Spokane Diversity Plan found attached to the emails identified above. According to the history of the document, it was last modified on September 10, 2019 and was last printed on September 10, 2021.

20. Board staff found a third word document that appeared to be a draft of the Spokane Diversity Plan. The typos that Board staff observed on the September 10, 2019 document appeared to have been corrected. According to the history of the document, it had been modified on September 11, 2019 and a copy of the document was printed that same day.

21. A review of Ms. Clarke's internet history by Board staff under her user name of sclarke5, found that Ms. Clark visited at least one of the following shopping sites at least once on 16 different days between October 4, 2018 and December 6, 2019. Eight of those visits occurred during the period of October, November and December of 2018. There was no evidence that Ms. Clarke made any purchases.

- Macys.com
- Nordstrom.com
- Nordstromrack.com
- shoprunner.com

22. When asked by Board staff about the websites, Ms. Clarke told Board staff that some of those visits were job related. She said they were purchasing clothing and jackets for their Multi-Cultural Ambassadors and Diversity and Inclusion team. She said they were looking at different sites for specials on clothing items.

23. Board staff found that Ms. Clark visited at least one of the following celebrity news sites at least once on 37 different days between August 23, 2018 and October 24, 2019.

- Hapersbazaar.com
- Vanityfair.com
- Townandcountrymag.com
- Cosmopolitan.com
- stylebistro.com
- monagiza.com

24. Board staff also found that Ms. Clark visited MSN.com at least once on 124 different days between April 12, 2018 and August 25, 2020. The majority of the subjects searched appeared to be job related. There were some searches of what appeared to be non-job related subjects such as looking at celebrity's sites and news about members of the British Royal Family.

25. In regards to the news and celebrity sites, Ms. Clarke told Board staff that she uses the information about celebrities for her diversity training. She said that students respond better to her use of current events and popular culture with historical context in educating and training on Diversity Equity & Inclusion. She said that as an example, she was researching Megan Markel because she was the first African American mixed race women of multicultural descent in the modern monarchy.<sup>7</sup>

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<sup>7</sup> Ms. Clarke provided Board staff with a recent PowerPoint presentation, *The State of Diversity* as an example of her research using social media outlets, "utilizing popular culture with historical context in educating and training on Diversity Equity & Inclusion."



26. In a written response to Board staff, Ms. Dreis she said she has worked at EWU for 25 years. She said she felt the Office for Diversity and Inclusion is by far one of the busiest offices she has worked in due to limited resources. She said they have only three staff working together and due to COVID, they have worked from home 16 months out of the 24 months.

27. Ms. Dreis said it is common knowledge that Ms. Clarke has her own consulting business. She said she is not involved in Ms. Clarke's business negotiations outside of work as those are Ms. Clarke's private matters. She said she is not aware of Ms. Clarke using any state resources for personal gain.<sup>8</sup>

## B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or property under the officers or employees official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee or another.

WAC 292-110-010 Use of state resources, states, in part:

.....  
**(3) Permitted personal use of state resources.** This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;

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<sup>8</sup> Board staff found no evidence that Ms. Dries using state resources or was being directed by Ms. Clarke to use state resources for Ms. Clarke's outside business.

- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

2. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360. The Board has set forth criteria in WAC 292-120-030 for imposing sanctions and consideration of any mitigating or aggravating factors.

### **C. AGGRAVATING AND MITIGATING FACTORS**

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor these types of violations significantly reduce the public respect and confidence in state government employees and they were continuous in nature. In the matter at hand, there are no mitigating factors.

### **D. STIPULATION AND AGREED ORDER**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Shari Clarke and over the subject matter of this complaint.
2. Under RCW 34.05.060, the Board can establish procedures for attempting and executing informal settlement of matters in lieu of more formal proceedings under the Administrative Procedures Act, including adjudicative hearings. The Board has established such procedures under WAC 292-100-090.
3. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein, subject to Board approval.
4. Shari Clarke agrees that if any or all of the alleged violations were proven at a hearing, the Board may impose sanctions, including a civil penalty under RCW 42.52.480(1)(b) of up to \$5,000, or the greater of three times the economic value of anything received or sought in

violation of chapter 42.52 RCW, for each violation found. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).

5. Shari Clarke further agrees that the evidence available to the Board is such that the Board may conclude they violated the Ethics in Public Service Act. Therefore, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the stipulated findings of fact, conclusions of law and agreed order.

6. Shari Clarke waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or their acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2).

7. If the Board accepts this stipulation, the Board agrees to release and discharge from all further ethics proceedings under chapter 42.52 RCW for any allegations arising out of the facts in this matter, subject to payment of the full amount of the civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the stipulation. Shari Clarke in turn agrees to release and discharge the Board, its officers, agents and employees from all claims, damages, and causes of action arising out of this complaint and this stipulation.

8. If the Board accepts this stipulation, it does not purport to settle any other claims between Shari Clarke and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future. No other claims of alleged violations are pending against Shari Clarke at this time.

9. If the Board accepts this stipulation, it is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

10. If the Board rejects this stipulation, or if Shari Clarke does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing before

the Board. If an administrative hearing is scheduled before the Board, waives any objection to participation by any Board member at the hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Shari Clarke understands and agrees that this stipulation as well as information obtained during any settlement discussions between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. Shari Clarke agrees to pay a civil penalty in the amount of three thousand dollars (\$3,000) associated with violations of RCW 42.52. The Board agrees to suspend one thousand (\$1,000) on the condition that Shari Clarke complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

12. The civil penalty in the amount of two thousand dollars (\$2,000) is payable in full to the Washington State Executive Ethics Board within forty-five (45) days after this stipulation is signed and accepted by the Board, or as otherwise agreed to by the parties.

### I. CERTIFICATION

I, Shari Clarke, hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify that I fully understand and agree to all of it, and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter and if the Board accepts the stipulation, I understand that I will receive a signed copy.

*Shari J. Clarke*  
\_\_\_\_\_  
Shari Clarke  
Respondent

11/30/2021  
\_\_\_\_\_  
Date

Presented by:

*K. Reynolds*  
KATE REYNOLDS  
Executive Director

*1/14/2022*  
Date

**II. ORDER**

Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

✓ ACCEPTED in its entirety;  
\_\_\_\_ REJECTED in its entirety;  
\_\_\_\_ MODIFIED. This stipulation will become the order of the Board if the Respondent approves\* the following modification(s):

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\_\_\_\_\_

DATED this 14th day of January 2022.

Approved via Zoom  
Shirley Battan, Chair

Approved via Zoom  
Gerri Davis, Vice Chair

Approved via Zoom  
Jan Jutte, Member

Absent  
Earl Key, Member

\* I, Shari Clarke, accept/do not accept (circle one) the proposed modification(s).

\_\_\_\_\_  
Shari Clarke, Respondent                      Date